

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

September 25, 2009

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Ref. No.: GLS-4610

HAWAII

Consent to Mortgage with Estoppel Certificate, General Lease No. S-4610, Kamana, Inc., Lessee, Waiakea, South Hilo, Hawaii, Tax Map Key: 3<sup>rd</sup>/ 2-4-056: 022.

APPLICANT AND REQUEST:

Kamana, Inc., requesting consent to mortgage from First Hawaiian Bank, Mortgagee, in an amount not to exceed \$1,300,000.00.

LEGAL REFERENCE:

Section 171-22, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Waiakea situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: 3<sup>rd</sup>/ 2-4-056:022, as shown on the attached map labeled Exhibit A.

AREA:

7.159 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution:

YES \_\_\_\_ NO X

CHARACTER OF USE:

Housing for the elderly and for the handicapped purposes.

TERM OF LEASE:

75-years, commencing on July 1, 1978 and expiring on June 30, 2053. There is no rental reopening scheduled with this lease.

ANNUAL RENTAL:

\$1.00. Payable in advance, without notice or demand, on January 1st of each and every year.

USE OF LOAN PROCEEDS:

Loan proceeds will be used to pay off an existing mortgage with the Hawaii Community Reinvestment Corporation. No new monies will be disbursed to Lessee.

BACKGROUND:

At its meeting of June 9, 1978, under agenda item F-5, as amended, the Board of Land and Natural Resources approved a direct lease of the subject premises to Big Island Housing Foundation for elderly housing.

At its meeting of February 22, 1980, Item F-18, the Board approved to amend the lease to expand the "Character of Use" from "elderly housing" to "housing for the elderly and for the handicapped".

At its meeting of February 8, 1991, the Board of Land and Natural Resources, under Item F-1-c, approved consent to assignment of General Lease No. S-4610, Big Island Housing Foundation, assignor, to Kamana, Inc., assignee.

On July 2, 2003, the Chairperson approved consent to mortgage of General Lease No. S-4610, Kamana, Inc., mortgagor, from the Hawaii Community Reinvestment Corporation, mortgagee, for \$2,175,000. Proceeds of the mortgage were to pay off an existing HUD mortgage.

On June 18, 2009, the Chairperson of the Board of Land and Natural Resources approved Consent to Mortgage with Estoppel Certificate of General Lease No. S-4610, Kamana, Inc., Mortgagor, First Hawaiian Bank, Mortgagee.

REMARKS:

In processing the consent document, the Office of the Attorney General notified staff that a check with the main office indicated that the delegation of authority to the Chairperson is only for approving consents to mortgage and anything other than that, like an estoppel certificate, requires Board approval.

As a result, staff is now forwarding its submittal to the Board of Land and Natural Resources for consideration to approve the above consent to mortgage with estoppel certificate.

Staff reviewed the file and can report that Lessee is in compliance with all terms and conditions of the lease. Annual rent is current and liability insurance is scheduled to expire on 4/1/2010. A Performance Bond for \$2.00 cash is deposited with Budget & Finance. The Lessee has never been cited for any illegal or unlawful activity on the State property.

There is no outstanding rental reopening issues since the lease rent is fixed for the entire term.

No agency or community comments were solicited, as there will be no change in disposition or use of the land.

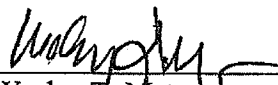

RECOMMENDATION: That the Board:

- A. Consent to the mortgage between Kamana, Inc., Mortgagor, and First Hawaiian Bank, Mortgagee, subject to the following:
  - 1. The loan proceeds shall be used for the purposes as stated in "Use of Loan Proceeds" above. The Lessee shall maintain records of loan expenditures, which may be inspected by the Department;
  - 2. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;
  - 3. Review and approval by the Department of the Attorney General; and
  - 4. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
- B. Authorize the execution of an Estoppel Certificate subject to the following:
  - 1. Review and approval by the Department of the Attorney General; and



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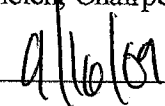
2. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
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Wesley T. Matsunaga  
Land Agent 

APPROVED/DISAPPROVED:

  
\_\_\_\_\_  
Laura H. Thielen, Chairperson 

  
\_\_\_\_\_  
Date

